

Abstract

The dissertation deals with the termination of employment by the employer and notice-related institutes.

It is an undisputable fact that employers often make errors and mistakes when giving a notice. The aim of the work is to perform a detailed analysis of a notice with an emphasis on these errors and mistakes and try to find a solution to prevent them.

Perhaps even a more important fact is the unwillingness of employers to use the notice institute in a wording applicable by *de lege lata*. In addition to unintended errors, employers often quite deliberately and intentionally evade the law. They argue with insufficient flexibility and a low level of liberality in the employment termination legislation, purportedly making them avoid giving a notice or misuse the termination reasons. Evaluation of whether or not the attitude of employers is grounded and reflects on how to improve the undesirable situation of evading the law is another goal of the work.

The Labour Code is the basic source of this legislation. Therefore, the dissertation deals with the Labour Code in the introduction and its relation to the Civil Code in the later phase. The term "employment" is also explained and other legal acts by which employment can unilaterally be terminated (immediate termination of employment, employment termination in the probationary period) are analysed in detail for comparison purposes.

The institute of termination of employment by the employer is given in historical connections, its terms are described, all substantive conditions of the institute are analysed, such as the notice form or delivery, with some special cases of a notice being included. Considerable space

is given to termination reasons as they can be considered the most problematic in terms of both interpretation and application. Termination of the employer or any part of the employer, relocation of the employer or any part of the employer, employee redundancy, work injury, occupational disease, long-term health disability of an employee, failure to meet conditions or requirements for the performance of work, failure to meet obligations arising from legal regulations and breaching an obligation to comply with the mode of an insured temporarily unable to work are concerned. As to the termination reasons, it is suitable to note that for *de lege ferenda* I consider beneficial to enable the employer to give a notice to its employee without giving a reason or for a reason other than that provided for by the law if corresponding financial compensation is anchored in the law, if control mechanisms preventing misuse of the institute are set and if certain groups of employees - those with a socially weak position in the labour market are protected.

The dissertation further discusses questions closely connected with a notice, such as the notice period, compensation money, dismissal prohibition, employee evaluation, etc.

Given the aims of the work, it is necessary to make it clear when a legal act of giving a notice is invalid and explain what claims entities of employment may bring to the court as a result of an invalid notice. This is dealt with in the next part of the work.

The final chapters include a description of the EC directives on termination of employment by the employer and an explanation of how they are reflected in the Labour Code. It can be said that our legislation is in accordance with the community law and this is where I see one of the essential reasons the legislation keeps a protective nature.

Subsequently, notice legislation is compared with the legislation of the Slovak Republic, with a result that the Slovak legislation is ahead of our legislation and that it could serve as inspiration for us in a number of matters.

In the conclusion of the work I summarise the most frequent mistakes of employers when giving a notice. My statement is that some terms of the legislation including the termination reasons could be clarified or more detailed. However, the frequent problems of employees are caused by underestimating the necessity to have the legal knowledge of such a complex act as a notice. I further explain where I can see the right level of flexibility and liberality of the Labour Code (also termination of employment) and I state that flexibility could be increased in my opinion. As a suitable tool in this sense I see the anchoring of a possibility to terminate employment by the employer without giving a reason or for a reason other than the statutory reason.

The issue of termination of employment by the employer is described comprehensively in the dissertation. A special attention is in particular paid to areas that seem to be problematic and that are often discussed in professional literature. The applicable jurisdiction, especially decisions of the industrial panel of the Supreme Court of the Czech Republic are considered. The applicable legislation is critically evaluated and a number of *de lege ferenda* suggestions are offered. The work is based on a legal state effective as of 31 March 2013.